

ESTTA Tracking number: **ESTTA568915**

Filing date: **11/04/2013**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91204777
Party	Plaintiff Apple Inc.
Correspondence Address	JOSEPH PETERSEN KILPATRICK TOWNSEND STOCKTON LLP 31 WEST 52ND STREET, 14TH FLOOR NEW YORK, NY 10019 UNITED STATES JPetersen@kiltown.com, AlJones@kiltown.com, ARoach@kiltown.com, agarcia@kiltown.com, NYTrademarks@kiltown.com, tadmin@kiltown.com
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Filer's Name	Allison Scott Roach
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Signature	/Allison Scott Roach/
Date	11/04/2013
Attachments	2013-11-4 NOR-3 (W-Exh.).pdf(1129498 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Application Serial No. **85/379,097**

For the mark: **CRAPPLE**

Filed: July 22, 2011

Published: December 20, 2011

<p>-----X</p> <p>APPLE INC.,</p> <p style="padding-left: 40px;">Opposer,</p> <p style="padding-left: 80px;">v.</p> <p>NINJA ENTERTAINMENT HOLDINGS, LLC,</p> <p style="padding-left: 40px;">Applicant.</p> <p>-----X</p>	<p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p>	<p>Opposition No. 91204777</p>
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OPPOSER’S THIRD NOTICE OF RELIANCE

Opposer Apple Inc. (“Apple”), pursuant to 37 C.F.R. § 2.122(e) and the Board’s decision in *Safer, Inc. v. OMS Investments, Inc.*, 94 U.S.P.Q.2d 1031, 1036-39 (T.T.A.B. 2010), submits of record in connection with this opposition proceeding copies of printouts of web pages and other documents that were publicly available on the Internet on the date and at the source from which they were printed, as identified below.

EXHIBIT	DATE PRINTED FROM INTERNET	PUBLICLY AVAILABLE INTERNET SOURCE FROM WHICH DOCUMENT WAS PRINTED (URL)
A	June 26, 2012	http://www.crapple.com/
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D	June 26, 2012	http://www.crapple.com/how-it-works/
E	June 26, 2012	http://www.crapple.com/forum/
F	June 26, 2012	http://www.crapple.com/about-us/
G	June 26, 2012	http://www.crapple.com/contact/

H	June 26, 2012	http://www.crapple.com/terms/
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J	June 26, 2012	http://www.crapple.com/login/
K	June 26, 2012	http://www.crapple.com/press/

These documents obtained from the Internet are relevant to the issues of likelihood of confusion and dilution and show, among other things, Applicant's use of the mark at issue in this opposition proceeding.

Respectfully submitted,

Dated: November 4, 2013

KILPATRICK TOWNSEND & STOCKTON LLP

By: /s/Allison Scott Roach

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New York, New York 10036
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Attorneys for Opposer Apple Inc.

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Application Serial No. **85/379,097**

For the mark: **CRAPPLE**

Filed: July 22, 2011

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-----X		
APPLE INC.,	:	
	:	Opposition No. 91204777
Opposer,	:	
	:	
v.	:	
	:	
NINJA ENTERTAINMENT	:	
HOLDINGS, LLC,	:	
	:	
Applicant.	:	
-----X		

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing has been served on Ninja Entertainment Holdings, LLC by depositing a copy with the United States Postal Service as First Class Mail, postage prepaid, in an envelope addressed to:

Daniel Kelman
1934 Josephine Street
Pittsburgh, Pennsylvania 15203

This the 4th day of November, 2013.

/s/ Alberto Garcia
Alberto Garcia

EXHIBIT A

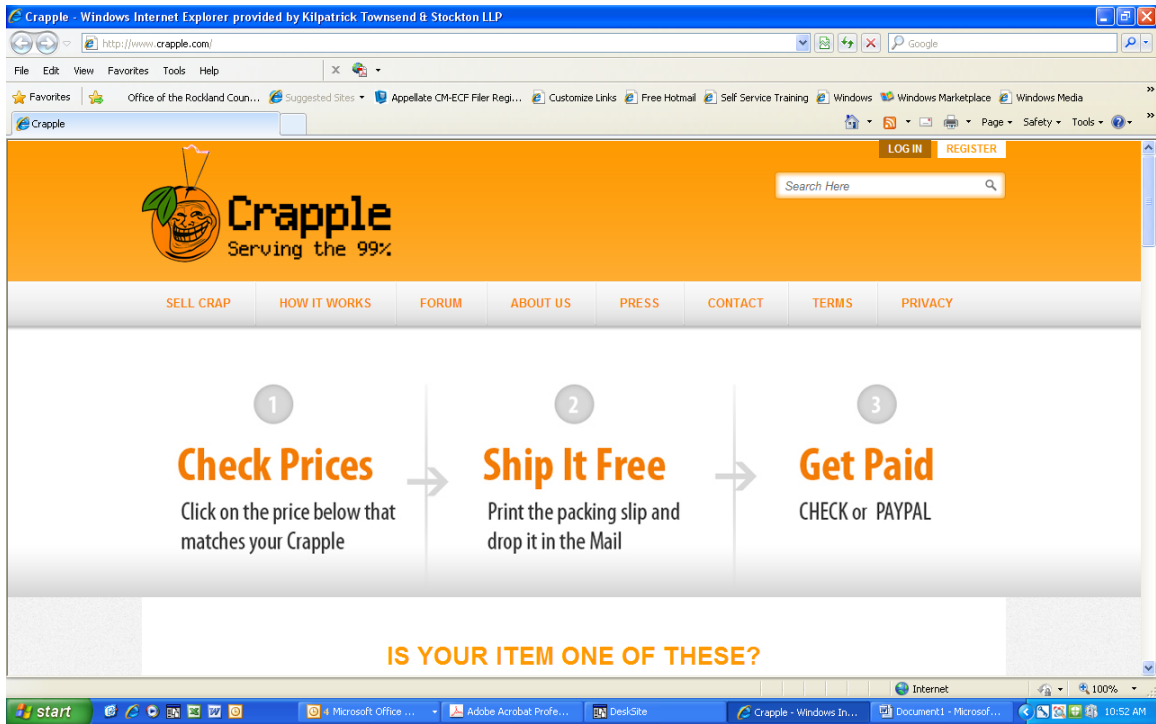


EXHIBIT B



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1

Check

Click on the p
matches your

Is your item one of these?

Most model numbers are located near the battery or on the back of your device.



Motorola Droid 4

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Motorola Droid
Razr

[SELL IT NOW](#)

Samsung
Galaxy Note

[SELL IT NOW](#)

Samsung Epic
Touch

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Samsung
Galaxy Nexus

[SELL IT NOW](#)

New : \$242
Used : \$176
Broken : \$30



Apple iPad 2 –
WiFi + 3G
(AT&T only)
64GB

SELL IT NOW

New : \$410
Used :
Broken : \$180

New : \$230
Used : \$167
Broken : \$30



Apple iPad 2 –
WiFi + 3G
(AT&T only)
32GB

SELL IT NOW

New : \$345
Used : \$325
Broken : \$165

New : \$346
Used : \$254
Broken : \$50



Apple iPad 2 –
WiFi + 3G
(AT&T only)
16GB

SELL IT NOW

New : \$330
Used : \$310
Broken : \$190

New : \$223
Used : \$83
Broken : \$50



Apple iPad 2
WiFi + 3G
(Verizon only)
64GB

SELL IT NOW

New : \$380
Used : \$360
Broken : \$170

New : \$223
Used : \$162
Broken : \$50



Apple iPad 2
WiFi + 3G
(Verizon only)
32GB

SELL IT NOW

New : \$370
Used : \$360
Broken : \$200



Apple iPad 2
WiFi + 3G
(Verizon only)
16GB

SELL IT NOW

New : \$330
Used : \$310
Broken : \$190



Apple iPad 2 –
64GB

SELL IT NOW

New : \$370
Used : \$350
Broken : \$190



Apple iPad 2 –
32GB

SELL IT NOW

New : \$305
Used : \$285
Broken : \$165



Apple iPad 2 –
16GB

SELL IT NOW

New : \$245
Used : \$225
Broken : \$145



Apple iPad 1 –
64GB

SELL IT NOW

New : \$205
Used : \$185
Broken : \$100



Apple iPad 1 –
32GB

SELL IT NOW

New : \$190

Used : \$170

Broken : \$105



Apple iPad 1 –
16GB

SELL IT NOW

New :

Used : \$170

Broken : \$95



Apple iPhone 4S
(Verizon only)
64GB

SELL IT NOW

New : \$371

Used : \$313

Broken : \$90



Apple iPhone 4S
(Verizon only)
32GB

SELL IT NOW

New : \$328

Used : \$276

Broken : \$90



Apple iPhone 4S
(Verizon only)
16GB

SELL IT NOW

New : \$279

Used : \$234

Broken : \$90



Apple iPhone 4S
(Sprint only)
64GB

SELL IT NOW

New : \$371

Used : \$313

Broken : \$90



Apple iPhone 4S
(Sprint only)
32GB

SELL IT NOW

New : \$328

Used : \$276

Broken : \$90



Apple iPhone 4S
(Sprint only)
16GB

SELL IT NOW

New : \$279

Used : \$234

Broken : \$90



Apple iPhone 4S
(AT&T only)
64GB

SELL IT NOW

New : \$395

Used : \$333

Broken : \$90



Apple iPhone 4S
(AT&T only)
32GB

SELL IT NOW

New : \$346

Used : \$291

Broken : \$90



Apple iPhone 4S
(AT&T only)
16GB

SELL IT NOW

New : \$297

Used : \$249

Broken : \$90



Apple iPhone 4
(Verizon only)
32GB

SELL IT NOW

New : \$177

Used : \$147

Broken : \$50



Apple iPhone 4
(Verizon only)
16GB

SELL IT NOW

New : \$162

Used : \$132

Broken : \$50



Apple iPhone 4
(Verizon only)
8GB

SELL IT NOW

New : \$100

Used : \$82

Broken : \$50



Apple iPhone 4
(Sprint only)
32GB

SELL IT NOW

New : \$177

Used : \$147

Broken : \$50



Apple iPhone 4
(Sprint only)
16GB

SELL IT NOW

New : \$162

Used : \$132

Broken : \$50



Apple iPhone 4
(Sprint only) 8GB

SELL IT NOW

New : \$100

Used : \$82

Broken : \$50



Apple Iphone 4
(ATT only) 32GB

SELL IT NOW

New : \$177

Used : \$152

Broken : \$65



Apple Iphone 3G
(ATT only) 8GB

SELL IT NOW

New : \$73

Used : \$46

Broken : \$15



Apple Iphone 3G
(ATT only) 16GB

SELL IT NOW

New : \$125

Used : \$95

Broken : \$15



Apple Iphone 3G
(ATT only) 32GB

SELL IT NOW

New : \$132

Used : \$102

Broken : \$15



Apple Iphone 4
(ATT only) 8GB

SELL IT NOW

New : \$100

Used : \$82

Broken : \$50



Apple Iphone 4
(ATT only) 16GB

SELL IT NOW

New : \$165

Used : \$145

Broken : \$75

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Company Info

1 (412) 315-7604

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Sell Crap

What do you call a smart phone you no longer use? A piece of Crapple. Its just sitting there, taking up space and depreciating in value. Turn that piece of Crapple into cash by sending it into us. We don't even care if its broken, we'll still get you paid for it!

Why did you buy that crappy iphone anyway? Android is open source, doesn't censor app developers and is in general a superior platform. So what are you waiting for? Ditch that piece of Crapple, get paid and upgrade yourself.

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How It Works

- (1) Look at the homepage and check out our quotes on pieces of Crapple.
- (2) Click on the price of the piece of Crapple you want to sell us
- (3) Register with us (or sign in if you're a CrappleVet) and we'll email you a pre-paid postage and instructions as to how to send us your piece of Crapple.

That's it! Once we receive your Crapple (c'mon, we gotta make sure it's a Crapple and not a vintage 1985 Gordon Gekko brick phone) we'll send you cash via Paypal or check, whichever you prefer.

But what happens to your piece of Crapple? We fix it (if broken), and sell it to other members of the 99%, both nationally and internationally, who can't afford a new piece of Crapple. It may be just a piece of Crapple to you, but to many having a Crapple means access to the modern world and the technology necessary to make a living in a world dominated by the top 1%.

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About us

Our duty is to provide the 99% with a reliable, fast way to get paid for their Crapple.

Crapple provides the most straightforward method for getting paid for your used electronics: the price you see on our home page is the amount you will receive for your “piece of Crapple.” Moreover, just let us know if your item is new, used or broken, register with us and we’ll pay for your shipping. Could it get more simple?

Other websites require you to waste your time rating your merchandise’s quality across multiple categories before you receive a quote, which is often \$0—they call this “recycling”, we call it lying. Worse, once these sites receive your merchandise and “process” it (typically two weeks) they often give you a call to dispute your merchandise’s ranking and downgrade their quote. If you choose not to accept, they simply send you back your merchandise, resulting in a loss of your time and energy. They know the 99% needs cash and need it quick, so they seek to exploit ordinary people’s tough economic situation by lowballing you when you need access to cash.

Crapple understands the 99% because we are a part of it. We strive to get you paid without hassle. With Crapple, what you see is what you get: just let us know if your piece of Crapple is new, used or broken and we will send you the amount listed on our home page as of the date you shipped it. No clicking, just look at the prices on our home page.

We’ll even pay for your shipping.

So what are you waiting for?

Cash in your piece of Crapple today!

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Website

Your message

Subject *

Message *

Confirmation

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Terms

Legal

Terms of Sale Agreement

Crapple, LLC dba Crapple ("Crapple") offers services (the "Crapple Services") through which you can sell, donate or recycle certain consumer electronic products (the "Products") after receiving a "quote" from Crapple. You must agree to abide by the following terms in order to use the Crapple Services.

BY SETTING UP AN ACCOUNT, OR BY USING CRAPPLE'S WEB SITES, YOU SIGNIFY THAT YOU AGREE TO THE FOLLOWING TERMS AND CONDITIONS.

1. About These Terms. These terms govern any offer that you make to sell, donate or recycle your Product to or through Crapple. These terms, the terms that govern your use of Crapple's web sites ("Crapple Websites"), the Crapple Services and any and all applications included therein, which terms are located at <http://www.crapple.com/legal>, the terms of Crapple's privacy disclosures located at http://www.crapple.com/privacy_policy and any supplemental terms or policies that accompany a specific transaction, feature or application collectively make up an agreement between you and Crapple (the "Agreement"). You acknowledge that this Agreement is in electronic form and has the same force and effect as an agreement in writing. In this Agreement, the term "you" or "your" means an individual or entity exercising rights under this Agreement, and the term "Crapple," "we" or "us" means Crapple and its affiliates and subsidiaries.
2. Requirements. In order to complete the sale, donation or recycling of your Product to or through Crapple or to complete any other transaction with Crapple, you must:
 - Create an account with us;
 - Provide true, up to date and accurate account information about yourself and any Product you offer to us;
 - Comply with all terms and conditions of this Agreement;
 - Comply with all applicable laws and regulations, including all import and export laws as described in Section 14 below;

Transact on behalf of yourself and not on behalf of others; and

Have the legal capacity to enter into agreements and to convey title and interest in any Product that you submit to us.

In order to receive payments for any Products we purchase from you, you must provide us with information including a valid email address at which you are able to receive email, a valid postal address at which you are able to receive mail, and your first and last name. You understand and agree that if you fail to provide us with accurate and up to date information about yourself: (a) we will not be responsible for any misapplied payments or payments sent to a wrong address, and (b) any unclaimed funds may be subject to collection by governmental authorities under applicable unclaimed funds and escheat laws. You agree that we have no obligation to you if any of your unclaimed funds are turned over to governmental authorities.

3. **Product Eligibility.** While Crapple strives to provide a quote on each Product you may wish to sell, donate or recycle, Crapple determines, in its sole discretion, which Products are eligible for purchase, donation and/or recycling by or through the Crapple Services and for which eligible Products Crapple will provide a quote. Crapple may terminate the eligibility of certain Products at any time and without advanced notice, but such termination will not affect any Products for which you have already accepted a quote.

4. **Condition Defined.** Crapple uses four (3) Product conditions to grade Products, ranking products as “new”, “used” or “broken”. Conditions may vary between categories and types of Products. Generally, Crapple’s Product definitions are as follows:

New the item is a new and unused Product, in perfect condition with no scratches, scuffs, or signs of use.

Used: Product works and does not have missing buttons, screen damage, excessive scratches, etc.

Broken: the item has physical or functional issues such as cracked body, damaged display, missing or broken parts, dents, deep scratches, personalization(s), etc.

The above definitions are broad guidelines. More specific condition definitions specific to the category and/or type of Product are included on the Crapple Website offer screen and serve as the effective condition definition for that product. Condition definitions are subject to change at Crapple’s discretion. If you are uncertain about your Product’s condition, please seek guidance by contacting Crapple’s customer care.

5. **Product Valuation; Product Recycling.** All quotes will be based on Crapple’s own determination of the Product value in reliance on the accuracy of the information you supply us. Crapple will use its discretion to determine the Product value, weighing factors that may include the Product’s model, functionality and condition. Upon receiving a quote, you have the option of accepting or rejecting that quote. Acceptance indicates you are willing to provide your Product to Crapple at the quoted price. If Crapple determines that the Product has nominal value, Crapple may provide you a quote of \$0. If you decide to continue and accept Crapple’s quote of \$0, you will send to Crapple and Crapple will accept the Product for recycling. If you do not accept Crapple’s quote, the specific transaction expires. If after rejecting the quote you change your mind and want to accept the quote, you will need to open another transaction with us at which point the quote may be different.
6. **Fitness for Sale.** You must own the right, title, and interest in any and all Products you seek to sell, donate or recycle to Crapple. The Products and the sale and shipment of such items to Crapple: (a) must comply with all applicable laws, statutes, ordinances, including without limitation all import and export laws as described in Section 14 below, (b) may not infringe on third party intellectual property rights (including copyrights, trademarks, patents, trade secrets or other proprietary rights), and (c) shall not be counterfeit, stolen, or fraudulent. You represent and warrant that the Products are free of any liens or encumbrances, including third-party software which may not be transferred or for which royalties are due. By using the Crapple Services, you agree to indemnify Crapple from all claims or losses sustained by Crapple as a result of any breach of this warranty.

7. **Sending Crapple Your Product.** When packaging your Product, be sure to include all materials included in your description when we calculated your quote, as well as any other materials that came with your Product (e. g., operating systems disks). This may include software, accessories, adapters, and manuals. Failure to include any items you told us about when the quote was calculated, or sending us a Product which does not match your original description, may impact the final value of your Product and may result in a recalculated classification (e.g. classified as “used” instead of “new”).
8. **Removing Data From Your Product.** For Products involving devices that store files and/or personal data on hard drives, memory chips or the like, you must back up and store any data you wish to keep from your Product and remove any personal information before you send your Product to us. Crapple’s standard practice is to remove all such data from your Product, however, Crapple makes no guarantee that it will do so. By sending Crapple your Product, you agree to release us from any claim as to the Product, the data stored in such Product, or any information on any media used in conjunction with the Product and which you send to Crapple, or for such data’s security, integrity, confidentiality, disclosure or use. Crapple is not responsible for: (a) any loss suffered by you due to any data that is not erased from the device and transferred to a third party, or (b) any loss of data after you submitted your Product to us.
9. **Product Inspection; Quote Recalculation.** Your Product must be received by Crapple within thirty (7) days after you accept the original quote by Crapple (the “Delivery Period”). Packing and shipping recommendations provided to you by Crapple should be followed in order to avoid possible damage to or loss of the Product in transit. All Products that are received will be inspected by Crapple. Crapple has the option to accept or reject the Product, including without limitation, to reject any Product not conforming to the description you provided to us, any Product modified in such a way that it no longer conforms to the original factory specifications, any Product no longer complying with applicable laws or regulations (e.g., FCC rules, etc.) and/or any Product damaged or lost in transit. Crapple reserves the right to recalculate the original quote for the Product if: (a) the Product and/or materials are not as described, and/or (b) the Product is received by Crapple after the Delivery Period. In the event Crapple recalculates the quote, you shall have the option of accepting or rejecting the new quote. If you accept the new quote, you will be paid in normal course and in accordance with these service terms. If you reject the new quote, Crapple will return the Product to you at the address from which it was originally sent. Crapple will give you a period of five (5) days after Crapple presents you with a recalculated quote to accept or reject the new quote (the “New Quote Period”). Crapple will also remind you of the outstanding new quote one or more times during the New Quote Period. However, if the new quote is neither affirmatively accepted nor rejected by you during the New Quote Period, the new quote will be deemed to have been accepted by you and you will be paid the new quote in normal course and in accordance with these service terms. For avoidance of doubt, your acceptance of the original quote and/or any new quote is final and you may not change your mind later about accepting such quotes.
10. **Releasing Rights to Product.** Once you send Crapple your Product, Crapple cannot and does not guarantee that it will be able to honor any request for return of the Product and/or any data or information contained in such Product. Of course, if Crapple rejects the Product or you do not accept any new quote for the Product pursuant to Section 9 (“Return Circumstances”), your Product will be returned to you as set forth in Section 9.
11. **Risk-Of-Loss.** You remain responsible for the risk-of-loss for the Products until delivery of the same to Crapple. You are responsible for any damages that may occur to your Product while in transit. Crapple is responsible for risk-of-loss when it opens the packaging containing your Product and ceases in the event Crapple returns your product to you for any reason. For avoidance of doubt, in such event, risk of loss will

be transferred to you once Crapple delivers the package to the carrier for return to you and you will bear the risk of loss in transit.

12. **Passing of Title.** Title to the applicable Product passes to Crapple upon Crapple's acceptance of the Product for the original quote or the new quote, as applicable. If there is a Return Circumstance, title shall not pass and shall remain with you.

13. **Non-Transferable.** Any quote by Crapple for your Product is non-transferable and not redeemable for any other consideration other than what is quoted by Crapple.

14. **Import and Export Laws.** You agree to comply fully with all import and export laws, regulations, rules and orders of the United States, or any foreign government agency or authority, and that you will not directly or indirectly transfer your Product without proper authorization from the U.S. and/or foreign government. You bear responsibility for and assume all expenses relating to your compliance with the described laws, regulations, rules and orders, and for obtaining all necessary authorizations and clearances in order to convey your Product to Crapple, including without limitation, valuation, classification and duties applicable with the import of any goods. Please note: U.S. trade sanctions administered by the Office of Foreign Assets Control (OFAC) generally prohibit the importation into the United States (including U.S. territories), either directly or indirectly, of most goods, technology, or services (except information and informational materials) from, or which originated from Cuba, Iran, Iraq, Libya, North Korea, Serbia, or Sudan; from foreign persons designated by the Secretary of State as having promoted the proliferation of weapons of mass destruction; named Foreign Terrorist Organizations; designated terrorists and narcotics traffickers. You may not offer or provide to Crapple for recycling, donation or for sale, any Products that would violate the provisions of this Section 14.

15. **Promotions.** From time to time, and at Crapple's sole discretion, Crapple may offer promotional programs as an incentive to customers. Promotions applicable to payments are applied as an increment to the final value of a customer's Product, but they are not considered a change in that final value. Promotional programs have explicitly defined terms, including but not limited to, expiration usage per person and per transaction, and other limitations and restrictions. Unless otherwise stated, promotions must be applied by you before checkout. For the avoidance of doubt, once checkout is completed, promotions cannot be applied to the same transaction. Crapple reserves the right, in its sole discretion, to cancel or refuse promotions.

16. **Accuracy of all Information.** Crapple makes every effort to ensure the accuracy of all information you receive in relation to your Product. From time to time, however, there may be typographical errors, technical inaccuracies, pricing or other errors or omissions. As such, Crapple reserves the right, at any time prior to payment, to:

(a) Correct an error.

(b) Change the quote. In the event the Product has already been sent to Crapple, the changed quote will become a New Quote subject to the processes set forth in Section 9. Otherwise, the changed quote will be a re-issued original quote, which you may accept or reject.

(c) Void a transaction. If the Product was already sent to Crapple, Crapple will be deemed to have rejected the Product resulting in a Return Circumstance subject to Section 10.

17. **Privacy.** We view protection of users' privacy as a very important community principle. When you open an account and use Crapple's Web sites and the Crapple Services, we collect information about you. You agree that we may collect and use your information in accordance with the Crapple Privacy Policy, which you

can review by going to http://www.crapple.com/privacy_policy. If you object to your information being transferred or used in this way please do not use our services.

18. Electronic Notices and Transactions

You agree to transact with us electronically, including without limitation, agreeing to terms and conditions or offering to sell, donate, or recycle your Product by electronic means. You authorize Crapple to provide you with terms and important notices about Crapple and your transactions to an email address you provide to us or by posting notices on an applicable page (or my account area) on www.crapple.com. It is your duty to keep your email address up to date and to maintain a valid email address and to ensure that emails we send you are not filtered or stopped by spam filters or other types of email blocking functionalities. If you no longer desire to transact electronically with us, you may no longer use the Website. You can retrieve and review the Agreement by clicking on the “Legal” link at www.crapple.com.

19. Access

You are responsible for obtaining at your own expense all equipment and services needed to access and use the Crapple Websites and the Crapple Services, including all devices, Internet browsers and Internet access. If you access the Crapple Website and the Crapple Services through a mobile or wireless device, you are responsible for all fees that your carrier may charge you for data, text messaging and other wireless access or communications services.

20. No Warranties. WE PROVIDE THE CRAPPLE SERVICES AND WEBSITES “AS IS,” “WITH ALL FAULTS,” AND “AS AVAILABLE,” WITHOUT EXPRESS OR IMPLIED WARRANTIES OF ANY KIND. WE DISCLAIM ANY IMPLIED WARRANTIES OF MERCHANTABILITY, ACCURACY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT AND THE IMPLIED CONDITIONS OF SATISFACTORY QUALITY. WE MAKE NO REPRESENTATIONS THAT YOUR TRANSACTIONS WITH CRAPPLE WILL MEET YOUR REQUIREMENTS.

21. Limited Liability. IN NO EVENT SHALL CRAPPLE, ITS DIRECTORS, OFFICERS, EMPLOYEES, AFFILIATES, AGENTS OR CONTRACTORS BE LIABLE FOR ANY COMPENSATORY, DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, LOSS OF DATA, INCOME OR PROFIT, LOSS OF OR DAMAGE TO PROPERTY, OR ANY CLAIMS OF YOU OR OTHER THIRD PARTIES WHATSOEVER WITH RESPECT TO YOUR TRANSACTIONS WITH CRAPPLE UNDER THIS AGREEMENT. Some states do not allow the exclusion or limitation of liability of consequential or incidental damages, so the above exclusions may not apply to all users; in such states liability is limited to the fullest extent permitted by law.

22. Indemnity. You agree to indemnify, defend, and hold harmless Crapple, its parent, subsidiaries, affiliates, officers, directors, employees, agents, representatives, vendors and distributors from and against any and all claims, liabilities, damages, losses, costs, expenses, or fees (including reasonable attorneys’ fees) that such parties may incur as a result of or arising from your (or anyone using your account’s) violation or breach of any terms under this Agreement. We reserve the right to assume the exclusive defense and control of any matter otherwise subject to indemnification by you and, in such case, you agree to cooperate with our defense of such claim.

23. Entire Agreement/No Waiver. This Agreement constitutes the entire agreement of the parties with respect to the subject matter hereof. The captions are used only as a matter of convenience and are not to be considered

a part of this agreement or be used in determining the intent of the parties to it. No waiver by Crapple of any breach or default hereunder shall be deemed to be a waiver of any preceding or subsequent breach or default. Sections 6, 8, 10, 12, 14, 17, 18 and 20 through 26 shall survive termination of this Agreement.

24. Correction of Errors and Inaccuracies. The Crapple Website and any correspondence related to a transaction may contain typographical errors or other errors or inaccuracies and may not be complete or current. Crapple therefore reserves the right to correct any errors, inaccuracies or omissions and to change or update the Content at any time without prior notice. Crapple does not, however, guarantee that any errors, inaccuracies, or omissions will be corrected.

25. Modification. Crapple reserves the right to modify this Agreement at any time. If you do not agree to the changes, you may discontinue using the Crapple Websites and/or the Crapple Services before the changes take effect. Your continued use of Crapple after any such changes take effect constitutes your acceptance to such changes. Each time you submit a Product for sale, donation or recycling with Crapple, you reaffirm your acceptance of this Agreement. You are responsible for regularly reviewing periodically this Agreement, located at http://www.crapple.com/main/service_terms. The last date this Agreement was revised is set forth below. Terms and conditions modifying the Agreement are effective immediately upon posting.

26. Applicable Law and Venue. THIS AGREEMENT AND THE TERMS OF SALE AND TRANSFER OF TITLE OF YOUR PRODUCT ARE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH NEW YORK LAW AND TO THE EXTENT APPLICABLE, THE LAWS OF THE UNITED STATES. NO CONFLICT OF LAWS OR PROVISIONS OF ANY JURISDICTION WILL APPLY TO THESE TERMS AND CONDITIONS. BY CLICKING ON THE "ACCEPT" BUTTON BELOW, YOU AGREE THAT ANY ACTION AT LAW OR INEQUITY ARISING OUT OF OR RELATING TO THESE TERMS AND CONDITIONS WILL BE FILED ONLY IN STATE OR FEDERAL COURT LOCATED IN NEW YORK, NEW YORK, AND YOU HEREBY IRREVOCABLY AND UNCONDITIONALLY CONSENT AND SUBMIT TO THE EXCLUSIVE JURISDICTION OF SUCH COURTS OVER ANY SUIT, ACTION, OR PROCEEDING ARISING OUT OF THESE TERMS AND CONDITIONS. ALL DISPUTES MUST BE ADJUDICATED IN THE ENGLISH LANGUAGE.

If you have any questions, concerns, or suggestions regarding the above Agreement, please feel free to email info@crapple.com.

Last Updated: 19 December 2011

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EXHIBIT I



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Privacy

Crapple Privacy Policy

Please read the following to learn more about our privacy policy, the types of personal information we gather and the steps we take to safeguard it when you use the Web sites, applications and services provided by us (the “Services”).

Crapple is provided by Crapple, LLC. and its affiliates (“Crapple,” “we” or “us”). This policy covers how we treat personal information that we collect and use on or through the Services and other related websites where this policy is posted on the footer of the Web page.

You agree that this Privacy Policy is part of our Terms of Use and Terms of Sales Agreement, which you can review at <http://www.crapple.com/legal>. By accessing or using the Services, you agree to be bound by all of our terms and conditions.

Information Collection and Use

When you use the Services, you provide information to us. Crapple collects two types of information: (1) information that you provide to us that lets us know who you are (“Personally Identifiable Information”) and (2) information that does not by itself identify a specific individual (“Non-personally Identifiable Information”).

Personally Identifiable Information

You can browse the Services' Websites without telling Crapple who you are or revealing any personal information about yourself. However, when you transact with us (e.g., offer to sell a device) or register to open an account with Crapple, we ask for information about yourself, such as your name, email address, and zip code, which we collect and use as disclosed in this Privacy Policy. Once you submit information about yourself to us, you are not anonymous to us. We may also collect additional information about you when you engage in certain activities on the Services, such as: (a) provide transactional information when you sell, donate, offer to recycle, ship, or purchase an item ; (b) when you sign up for special offers; (c) when you visit the Services' Web pages or the pages of certain Crapple partners ; (d) when you interact with offers and advertisements; (e) when you contact us for help or customer support; (f) when you log into the Services with your account; (g) when you complete a survey; (h) when you post content or provide us with feedback; or (i) when you enter promotions or sweepstakes. Crapple might also receive information about you from other sources and add it to your account information. Providing information is purely optional on your part; however, not all features and services (such as, responding to your inquiries) would be available to you if you elect not to provide information. If you choose to provide us with personal information, you consent to the transfer and storage of that information by us.

Non-Personally Identifiable Information

We automatically receive and collect Non-personally Identifiable Information on our server logs from your browser, including your IP address, the Uniform Resource Locator ("URL") that you just came from, which URL you next go to, browser type, browser language, date and time of your query, Crapple cookie information, and the pages you request. This information is compiled and analyzed on both a personal and an aggregated basis. We may use third-party analytics services to collect, monitor and analyze the information collected as described above.

Use of Information

We primarily will use Personally Identifiable Information for the following purposes: (a) to provide the Services to you; (b) to customize the advertising and content you see ; (c) fulfill

any transactions, including, your requests for products and services ; (d) improve our services and offerings to you; (e) conduct research ; (f) provide you with support; (g) provide you with updates and notices about the Services, our Privacy Policy and terms and conditions; (h) contact you under certain circumstances; (i) provide you with offers from us, our affiliates and from third parties that may be of interest to you, and (j) provide anonymous reporting for internal and external clients. In addition, Crapple will use your email address to contact you under the following circumstances: to respond to your support questions, to notify you of material changes to our policies or website, to request your participation in user surveys, and to deliver products, services and marketing communications that you request.

We will use Non-personally Identifiable Information to diagnose problems with our servers and software, to administer the Services, and to gather demographic information. Our third-party advertising networks and servers will also provide us reports that will tell us how many ads were presented and clicked upon on Crapple in a manner that does not identify personally any individual.

Cookies

Crapple may set and access Crapple cookies on your computer. Upon your first visit to the Services, a cookie is sent to your computer that uniquely identifies your browser. A “cookie” is a small file containing a string of characters that is sent to your computer and stored on your hard drive when you visit a website; many major Web services use them to provide useful features for their users. Each web site can send its own cookie to your browser. Most browsers are initially set up to accept cookies. You can reset your browser to refuse all cookies or to indicate when a cookie is being sent; however if you reject cookies, you will not be able to sign in to the Services or take full advantage of our Services. Crapple uses cookies for the following general purposes: (a) to track your preferences, such as the address or local zip code you enter; (b) to access your information when you sign in so we can provide you with your personalized content ; (c) to display the most appropriate advertisements, based on your interests and activity on our web site; and (d) and to help us analyze and estimate our traffic and use of features on the Services.

We may also use “pixel tags,” which are small graphic files that allow us to monitor the use of the Services. A pixel tag can collect information such as the IP address of the computer that downloaded the page on which the tag appears; the URL of the page on which the pixel tag appears; the time (and length of time) the page containing the pixel tag was viewed; the type of browser that retrieved the pixel tag; and the identification number of any cookie previously placed by that server on your computer. We may use pixel tags, either provided by us or by our third party advertisers and ad networks, to collect information about your visit, including the pages you view, the links you click and other actions taken in connection with our sites and Services and use them in combination with our cookies to provide offers and information of interest to you.

We also may allow certain analytic services and providers of applications used on the Services (e.g. sharing buttons) to collect Non-Personally Identifiable information by placing cookies on the Services that will track certain performance of our Services, such as, web traffic, click-throughs, etc., in order to assist us and our service providers in better understanding the interests of our users and to better serve those interests.

Advertising

We may use other companies under agreements with us to serve advertisements when you visit and use the Services. These companies may collect and use [Non-Personally Identifiable Information] (e.g., click stream information, browser type, time and date, subject of advertisements clicked or scrolled over) during your visits to the Services and other Web sites in order to provide advertisements about goods and services likely to be of greater interest to you. These companies typically use a cookie, a third party web beacon and/or pixel tags to collect this information. To learn more about this behavioral advertising practice in general and the options that you have, including your option or to opt-out of this type of advertising, you can visit www.networkadvertising.org. These cookies, web beacons and pixel tags do not collect any personal information from your computer, such as your e-mail address. Other companies' use of their cookies is subject to their own privacy policies, not this one.

Advertisers or other companies do not have access to Crapple's cookies.

Targeted Advertising By Crapple

In order to serve offers and advertisements that may be interest to our users, we may display targeted advertisements on the Services based on Personally Identifiable Information provided by our users, including zip code and profile. We do not provide this Personally Identifiable Information to our advertisers when you interact with such an advertisement. However, please note that the advertisers (including ad serving companies) may determine based on their own analysis that a user who interacts with an advertisement targeted by Crapple may fit into a certain demographical category; for example, an advertiser may determine that men ages 25-34 are interacting with a certain advertisement on Crapple from a particular geographic area. You acknowledge that any information collected by such advertisers or advertising networks – and any options that you have with the use of such information – would be handled in accordance with the disclosures provided above in the “Advertising” section.

Information Sharing and Disclosure

Crapple does not rent, sell, or share personal information about you with other people or nonaffiliated companies except to provide products or services you've requested, when we have your permission, or under the following circumstances:

We provide the information to trusted partners who work on behalf of or with Crapple under confidentiality agreements. These trusted partners include companies with which Crapple may operate co-branded websites or web-pages to expand their services using Crapple's Services. These trusted partners may use your personal information to provide services to you on our behalf, evaluate the effectiveness of the services, and to help Crapple communicate with you about offers from Crapple and our marketing partners. However, these companies do not have any independent right to share this information. We respond to subpoenas, court orders, or legal process, or to establish or exercise our legal rights or defend against legal claims.

We believe it is necessary to share information in order to investigate, prevent, or take action regarding illegal activities, suspected fraud, situations involving potential threats to the physical safety of any person, violations of Crapple's terms of use, or as otherwise required by

law. We may transfer information about you if Crapple is acquired by or merged with another company. In this event, Crapple will post a notice on its website before information about you is transferred and becomes subject to a different privacy policy.

The sites displayed as search results or linked to by the Services are developed by people over whom Crapple exercises no control. These other sites may place their own cookies on your computer, collect data or solicit personal information. Crapple may present links in a format that enables us to understand whether they have been followed. We use this information to understand and improve the quality of Crapple's search technology. For instance, this data helps us determine how often users are satisfied with the first result of a query and how often they proceed to later results.

Your Ability to Edit and Delete Your Account Information and Preferences

Registered users can edit their Crapple account information, including contact preferences, at any time from their "My Account" account management page which you can find at www.crapple.com/account/login. We may, from time to time, send you e-mail regarding our products and services and third party products and services that may be of interest to you. You will have the opportunity to opt out of any further mailings at any time; provided, however, that we reserve the right to send you certain communications relating to the Services, such as (a) communications related to fulfilling a transaction, (b) service announcements, (c) notices regarding Crapple's legal terms and this Privacy Policy; and (d) administrative messages , which are considered part of your Crapple account. You will not have the opportunity to opt-out of receiving such notices.

You can delete your Crapple registered account by requesting an account deletion via email to support@crapple.com. You must provide us with the email address of the registered account.

After we have confirmed your request via email, we will remove access to your personal information from our user database.

Confidentiality and Security

We limit access to personal information about you to our employees and agents who we

believe reasonably need to come into contact with that information to provide products or services to you or in order to do their jobs. Your information is stored on our servers located in the United States. We treat data as an asset that must be protected and use many tools (encryption, passwords, physical security, etc.) to protect your personal information against unauthorized access and disclosure. However, third parties may unlawfully intercept or access transmissions or private communications, and other users may abuse or misuse your personal information that they collect from the site. Therefore, although we work very hard to protect your privacy, we do not promise, and you should not expect, that your personal information or private communications will always remain private. Because email and instant messaging are not recognized as secure communications, we request that you not send private information to us by email or instant messaging services.

Third Parties

This Privacy Policy only addresses the use and disclosure of information we collect from you. This policy does not apply to the practices of companies that Crapple does not own or control or to people that Crapple does not employ or manage. The Services may include applications, content and/or ads from third parties that may perform user activity tracking in addition to that described herein; Crapple accepts no responsibility for said activities. Crapple does not control the privacy policies of third parties, and you are subject to the privacy policies of those third parties where applicable. We encourage you to ask questions before you disclose your personal information to others. For more information about each such third party, please refer to the third party's privacy policy.

Changes to this Privacy Policy

We may amend this Privacy Policy at any time by posting the amended terms on this site. All amended terms automatically take effect 7 days after they are initially posted on the Services, unless that amendment states otherwise. In addition, we will notify you about significant changes in the way we treat personal information by sending a notice to the primary email address specified in your Crapple account or by placing a prominent notice on our site. If you do not agree to the changes, you may terminate your account by requesting an account

deletion via email to support@crapple.com. You must provide us with the email address of the registered account.

Crapple is intended for general audiences. Crapple does not collect or maintain information from those that Gazelle knows are under 13, and no part of the Crapple Services are targeted to attract anyone under 13.

California Users

If you are a California resident, in addition to the rights set forth above, you have the right to request information from us regarding the manner in which we share certain categories of your personal information with third parties, for the third parties' direct marketing purposes.

California law provides that you have the right to submit a request to us at the designated address and receive the following information: the categories of information we disclosed to third parties for the third parties direct marketing purposes during the preceding calendar year, the names and addresses of third parties that received such information, and if the nature of a third party's business cannot be reasonably determined from the third party's name, examples of the products or services marketed.

You are entitled to receive a copy of this information in a standardized format and the information will not be specific to you individually. Our designated email address for such requests is privacy@crapple.com.

Request for Information

If you have questions, concerns or suggestions, please feel free to send an email to privacy@crapple.com.

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